

Message Text

LIMITED OFFICIAL USE

PAGE 01 LAGOS 00434 150727Z

15

ACTION TRSE-00

INFO OCT-01 AF-06 ISO-00 EB-07 COME-00 OMB-01 CIAE-00

INR-07 NSAE-00 RSC-01 L-02 /025 W

----- 032594

R 141407Z JAN 75

FM AMEMBASSY LAGOS

TO SECSTATE WASHDC 7565

LIMITED OFFICIAL USE LAGOS 0434

E.O. 11652: N/A

TAGS: EFIN, NI

SUBJ: US - NIGERIA TAXATION MATTERS

REF: STATE 271553

1. MILTON HOFFMANN, IRS REP RESIDENT IN JOHANNESBURG WITH SUB-SAHARA AFRICAN RESPONSIBILITIES, ACCOMPANIED BY EMBOFFS, MET JANUARY 13 WITH DEPUTY CHAIRMAN OF INLAND BOARD OF REVENUE M. A. SONARIWO AND CHIEF INSPECTOR P.S.A. LAYADE.

2. IN AMICABLE, HOUR LONG EXCHANGE DEPUTY CHAIRMAN CONFIRMED THAT FMG CONSIDERS THAT US-UK TAX TREATY AS EXTENDED TO NIGERIA IN 1958 AND CONTINUED BY NIGERIA AFTER INDEPENDENCE REMAINS IN FORCE. SONARIWO ADDED THAT FOR PAST TWO YEARS FMG HAS BEEN REVIEWING PROVISIONS THIS AND OTHER DOUBLE TAX TREATIES TO WHICH NIGERIA PARTY (WE UNDERSTOOD SEVEN) WITH VIEW TO ENSURING THAT TREATIES ACCORD WITH CURRENT FMG CIRCUMSTANCES AND THINKING BUT SONARIWO UNABLE TO PREDICT WHEN REVIEW WILL BE COMPLETED OR GUESS AT PROBABLE FINDINGS. PENDING COMPLETION OF REVIEW FMG RELUCTANT TO CONCLUDE NEW TREATIES BUT ACCEPTS AND PREPARED HONOR OBLIGATIONS UNDER ALREADY EXISTING TREATIES. SONARIWO NOTED FMG HAD SO FAR HAD LITTLE OR NO OCCASION INVOKE PROVISIONS OF TREATY WITH US BUT ASSUMED US CONSIDERED IT VALID AND WOULD COOPERATE IN LINE WITH TREATY IF OCCASION AROSE. HOFFMANN REPLIED IN AFFIRMATIVE AND IN RESPONSE SONARIWO ASSURED HOFFMANN OF

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 LAGOS 00434 150727Z

FMG SIMILAR DESIRE TO COOPERATE UNDER TREATY.

3. IN EARLIER CONVERSATION WITH AMPECA (NIGERIA) REPS (MANAGING DIRECTOR RAMSEY AND ADMINISTRATIVE DIRECTOR ODEJINMI) WE OBTAINED SOMEWHAT DIFFERENT PICTURE OF AMPECA'S TAX AFFAIRS THAN THAT OUTLINED REFTEL. AS WE NOW UNDERSTAND SITUATION, IT SEEMS QUESTION OF WITHHOLDING TAX ON ROYALTIES IS NOT REAL ONE IN SENSE AMPECA (NIGERIA) HAS NOT ACTUALLY SOUGHT TO OBTAIN TREATY EXEMPTION AND, IN FACT HAS NOT SOUGHT TO REMIT ROYALTIES AS SUCH. APPARENTLY, AMPECA (NIGERIA) HAD ADVICE FROM ITS ACCOUNTANTS (PRICE WATERHOUSE) TO EFFECT ROYALTY REMITTANCES WOULD BE SUBJECT TO 40 PERCENT WITHHOLDING TAX AND RATHER THAN RUN THAT RISK AMPECA WORKED OUT OTHER ARRANGEMENTS UNDER WHICH EARNINGS ARE BEING REMITTED TO PRINCIPALS THROUGH PAYMENTS FOR IMPORT OF FILM PRINTS, AND EARNINGS RETAINED TO COVER AMPECA (NIGERIA) OPERATIONS ARE BEING TREATED AND TAXED NORMALLY AS COMPANY PROFITS. IN ABSENCE INSTRUCTIONS FROM THEIR PRINCIPALS RAMSEY AND ODEJINMI INDICATED RELUCTANCE HAVE EMBASSY RAISE QUESTIONS THAT MIGHT DISTURB THESE ARRANGEMENTS. (THEY ALSO MADE POINT THAT HAVING RECENTLY BEEN INVOLVED IN DIFFICULT NEGOTIATIONS WITH FMG OVER APPLICATION ENTERPRISES PROMOTION DECREE OF 1972, SO CALLED INDIGENIZATION DECREE, AND HAVING FINALLY OBTAINED EXEMPTION, THEY WISHED TO AVOID ATTRACTING FURTHER OFFICIAL ATTENTION TO AMPECA, PARTICULARLY AT THIS TIME WHEN ITS COMPETITORS ALLEGEDLY CRITICIZING AND REPORTEDLY HOPING TO UNDO EXEMPTION.)

4. IN CIRCUMSTANCES WE AVOIDED MENTION OF AMPECA TO INLAND REVENUE BOARD, BUT ON GENERAL SUBJECT OF ROYALTIES SONARIWO ASSURED HOFFMAN FMG RECOGNIZES AND PREPARED HONOR ITS TREATY OBLIGATIONS. HOWEVER, AS MATTER OF ADMINISTRATIVE PRACTICE, NIGERIAN FIRMS THAT PAY ROYALTIES (E.G., TO AMPECA) ARE OBLIGED TO WITHHOLD TAX, AND IN ORDER TO AVOID THIS WITHHOLDING AND ALSO TO OBTAIN CENTRAL BANK (I.E., EXCHANGE CONTROL) APPROVAL TO REMIT ROYALTIES WITHOUT PAYMENT OF TAX ONUS RESTS ON REMITTING FIRM, I.E., AMPECA, TO OBTAIN FROM INLAND REVENUE BOARD DECLARATION THAT ROYALTIES ARE IN FACT COVERED AND EXEMPTED UNDER TAX TREATY. IN LIGHT SONARIWO ASSURANCE, IT SEEMS THAT IF AMPECA WISHED TO TAKE LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 LAGOS 00434 150727Z

NECESSARY INITIATIVE IT SHOULD HAVE NO PROBLEM OBTAINING EXEMPTION ENVISAGED IN TREATY.

5. HOFFMANN FILING SEPARATE REPORT ON LAGOS CONVERSATIONS TO IRS, AND PENDING DEPARTMENT/IRS CONSIDERATION WE PLAN NO FURTHER ACTION ON AMPECA.
REINHARDT

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: ROYALTIES, INCOME TAXES, TAX AGREEMENTS
Control Number: n/a
Copy: SINGLE
Draft Date: 14 JAN 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ShawDG
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975LAGOS00434
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750015-0138
From: LAGOS
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750154/aaaabviz.tel
Line Count: 114
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION TRSE
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 75 STATE 271553
Review Action: RELEASED, APPROVED
Review Authority: ShawDG
Review Comment: n/a
Review Content Flags:
Review Date: 27 AUG 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <27 AUG 2003 by ElyME>; APPROVED <15 DEC 2003 by ShawDG>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
05 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: US - NIGERIA TAXATION MATTERS
TAGS: EFIN, NI, US
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006